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CP - Mr. Willoughby October 17, 1947

CP - Herman Walker

Addition of Provision on Social Security to Proposed Treaty of Friendship, Commerce and Navigation with Italy

During negotiations currently under way at Rome the Italian Government requested the addition of a provision relating to social security benefits. With the concurrence and counsel of ILH, the possibilities of accommodating the Italian request were explored with the Federal Security Agency. In collaboration with Messrs. Saperstein and Conley of the General Counsel's Office of that Agency, the following provision was drafted and cleared. Date of principal FSA clearance was October 13, by telephone call from Mr. Saperstein.

DEPARTMENT OF STATE A/CDC/MR
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In addition to the rights and privileges provided in paragraph 1 of this Article, the nationals of either High Contracting Party shall, within the territories of the other High Contracting Party, be accorded, upon terms no less favorable than those applicable to nationals of such other High Contracting Party, the benefits of laws and regulations establishing systems of compulsory insurance, under which benefits are paid without an individual test of financial need: (a) against loss of wages or earnings due to old age, unemployment or sickness or other disability, or (b) against loss of financial support due to the death of father, husband or other person on whom such support had depended.

This provision is strictly limited to two types of social security benefits, with reference to which there are no citizenship requirements in effect known to FSA. In fact, federal law expressly prohibits citizenship requirements as to old age and survivors insurance (42 U.S.C. 403b). Conversely, the proposed treaty provision is not calculated to cover aid to dependent children, aid to the blind or old age assistance, with reference to which there is a varying pattern of citizenship requirements under the state laws.

FSA stated that it has followed the policy of strongly opposing both citizenship and residence requirements in connection with all social security programs, but agreed

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that it would be quite premature to seek a more extensive treaty provision than the above. In the case of aid to dependent children, only Texas imposes a citizenship requirement; but in the case of old age assistance, 23 states have such requirements, although four of these accept lengthy residence in lieu of citizenship.

The above provision was sent to the Embassy at Rome with instructions to offer its addition as a second paragraph, Article XII (workmen's compensation and civil liability) of the draft under negotiation (Deptel 2091, Oct. 16).

cc: ITP
ILH

CP:HWalker:lgm

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